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EXECUTIVE OFFICE OF THE PRESIDENT
NATIONAL SECURITY COUNCIL
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MEMORANDUM FOR THE NATIONAL SECURITY COUNCIL

SUBJECT:

A Uniform Clearance Program for Individuals
Other Than Full-Time Federal Employees Who
Require Access to U. S. Classified Informa-
tion

REFERENCES:

- A. NSC 5437/1
- B. NSC 5512/1
- C. NSC Action No. 1337-b-(6)

The enclosed report on the subject, prepared
by the Attorney General and the Chairman, Civil Service
Commission, pursuant to NSC Action No. 1337-b-(6), is
transmitted herewith for consideration by the National
Security Council.

The enclosed report is being referred to the
NSC Planning Board for comment and recommendation prior
to its consideration by the Council.

NSC Declassification/Release Instructions on File

JAMES S. LAY, JR.
Executive Secretary

- cc: The Secretary of the Treasury
The Attorney General
The Secretary of Labor
The Special Assistant to the President for
Disarmament
The Director, Bureau of the Budget
The Chairman, Civil Service Commission
The Chairman, Atomic Energy Commission
The Chairman, Joint Chiefs of Staff
The Director of Central Intelligence
The Chairman, Interdepartmental Intelligence
Conference
The Chairman, Interdepartmental Committee on

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OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D. C.

March 22, 1956

Honorable James S. Lay, Jr.
Executive Secretary
National Security Council
Executive Office Building
Washington 25, D.C.

Re: A Uniform Clearance Program for Individuals
Other Than Full-Time Federal Employees Who
Require Access to U. S. Classified Informa-
tion NSC 5512/1

My dear Mr. Lay:

There is forwarded herewith the report called
for by National Security Council Action No. 1337-b-(6).

Sincerely,

/s/ HERBERT BROWNELL, JR.

Attorney General

/s/ PHILIP YOUNG

Chairman
Civil Service Commission

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not result in the denial of a clearance under Executive Order 10450 for occupancy of certain sensitive positions not involving access to classified information, whereas the agency would not grant clearance for access to classified information in the face of the same derogatory information.

It is not believed that the possible situations mentioned in the foregoing paragraph, however, preclude the application of Recommendation No. 2 of the Brucker Report to full-time Federal employees who require access to classified information. In any such case, the final decision would then be made at high managerial level and this would tend to insure that there would not be conflicting decisions within the same agency, one by the agency head in clearing the individual for occupancy of a sensitive position and the other by the security officer in denying the same individual access to classified information which might be required for the performance of duties in the sensitive position for which he has been cleared.

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Evidently, the Brucker Report, in this recommendation, did not intend to require high managerial participation in routine clearance for access where no derogatory information is present, but only where possible denial, revocation or suspension of clearance is involved. Recommendation 2 of the Attorney General to the President in his letter of March 4, 1955 on Executive Order 10450 contemplated that, in the case of suspension of employees under Executive Order 10450, the final decision should not be delegated below the level of Assistant Secretary. In the case of clearance for positions involving access to classified information, we do not perceive that any substantial difference exists between the decision for this purpose and a decision on the question of access to classified information. In other words, we believe that the criteria provided by that Executive Order may be applied to clearance for access to the classified information required for the discharge of duties in that position.

No amendment of Executive Order 10450 is required for this purpose, but Presidential approval would have the effect of a directive to agency heads to revise their clearance procedures in conformity thereto. The Civil Service Commission can accomplish implementation by circular letter.

We therefore recommend that Recommendation No. 2 of the second Brucker Report be adopted for full-time Federal employees who require access to classified information as follows:

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"The depths of delegation of authority over day-to-day decisions relating to clearance of civilian officers and employees of the Executive Branch of the Federal Government for access to classified information should be reviewed by agency heads in order to insure that such decisions are not made without full participation at high managerial level."

RECOMMENDATION NO. 3 (Brucker Report)

"Whenever an agency of the Federal Government makes a security evaluation of

- (a) A contractor employee requiring access to classified information, or
- (b) A part-time employee of the Federal Government requiring access to classified information

which conflicts with a comparable security evaluation of any other agency, the agencies involved in the multiple or successive security clearance should meet together at a high level of representation within a period of fifteen days, should consult with each other, and should without delay resolve the conflicting evaluation or reach a common understanding as to the reason for the conflict. The results of this consultation should be approved in writing by the heads of each of the agencies involved, and recorded in the files of each such agency."

Brucker Recommendation No. 3 requires resolution of conflicting evaluations or a common understanding as to the reason for the conflict, approved in writing by the agency heads involved, wherever there has been a conflicting evaluation with respect to clearance for access to classified information.

Recommendation 5 in the Attorney General's letter to the President dated March 4, 1955, requires consultation

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between agency heads whenever, under Executive Order 10450, it is proposed to make an adverse security evaluation with respect to a person previously cleared in another agency.

It therefore appears that there is a substantial agreement between procedures under Executive Order 10450 and those approved in the Brucker Report with respect to access clearance. Since it has been recommended above that, with respect to full-time Federal employees requiring access to classified information, the criteria of Executive Order 10450 should be applied, there appears to be no reason for refusing to apply the procedure recommended by the Brucker Report in Recommendation No. 3 to full-time Federal employees who require access to classified information. Presidential approval of the following recommendation will constitute a directive to agency heads to conform their procedures accordingly, as in the case of Recommendation No. 2, above. Accordingly, it is recommended that Recommendation No. 3 of the Brucker Report be adopted for full-time Federal employees requiring access to classified information as follows:

"Whenever an agency of the Federal Government makes a security evaluation of any civilian officer or employee of the Executive Branch of the Federal Government requiring access to classified information which conflicts with a comparable security evaluation of any other agency, the agencies involved in the multiple or successive security clearance should meet together at a high level of representation within a period of fifteen days, should consult with each other, and should without delay resolve the conflicting evaluation or reach a common understanding as to

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the reason for the conflict. The results of this consultation should be approved in writing by the heads of each of the agencies involved, and recorded in the files of each such agency."

RECOMMENDATION NO. 4 (Brucker Report)

"There should be a strict compliance with the provision of Executive Order 10450 which requires that information be recorded in the Civil Service Commission's Security Investigations of Federal government applicants and employees."

Recommendation No. 4 of the Brucker Report did no more than ask strict compliance with Executive Order 10450, which requires that information be recorded in the Civil Service Commission's Security Investigation Index concerning security investigations of Federal government applicants and employees. It therefore appears that no further action is required in connection with this procedure, which is mandatory under Section 9(a) of Executive Order 10450.

RECOMMENDATION NO. 6

Recommendation No. 6 of the Brucker Report provided that in any case, other than one of interim or emergency nature, of revocation, suspension or denial of clearance for access to classified information, the agency heads should have the advice and recommendation of persons at a high-command or managerial level. The second recommendation of the Attorney General to the President in his letter of March 4, 1955, with respect to Executive Order 10450 requires consultation with the general counsel of the department or agency as to the

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sufficiency of the information justifying suspension of an employee, with final decision as to suspension not delegated below the level of Assistant Secretary.

Since the approval by the Council and by the President of the Brucker recommendation constitutes concurrence in a procedure which would require action by the agency head in the case of clearance for access on the part of contractor employees and part-time Federal employees, it would seem that the case of full-time Federal employees presents even more compelling reasons for decision by the head of the agency. It has already been recommended that the criteria of Executive Order 10450 be applied to clearance of full-time Federal employees for access to classified information.

Approval of the following recommendation will constitute a directive to departments and agencies to revise their clearance procedures in conformity thereto, as in the case of Recommendation Nos. 2 and 3, above. Accordingly, it is recommended that Recommendation No. 5 of the Brucker Report be adopted for full-time Federal employees requiring access to classified information as follows:

"Prior to making a decision, other than one of interim or emergency nature, to revoke, suspend, or deny clearance for access to U.S. classified information to any civilian officer or employee of the Executive Branch of the Federal Government, an agency head shall have the advice and recommendations of persons at the managerial level who have reviewed and considered the evaluations and recommendations of the Security Officer or other person who considered the case in the first instance."

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